



महाराष्ट्र शासन राजपत्र

असाधारण भाग एक-कोकण विभागीय पुरवणी

वर्ष २, अंक २]

शनिवार, जानेवारी ३०, २०१६/माघ १०, शके १९३७

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असाधारण क्रमांक ३

प्राधिकृत प्रकाशन

URBAN DEVELOPMENT DEPARTMENT

Mantralaya, Mumbai 400 032, dated 29th January 2016

NOTIFICATION

MAHARASHTRA REGIONAL AND TOWN PLANNING ACT, 1966.

No. TPS.1813/3067/CR-122/MCORP/Konkan Div./12/UD-13.—Whereas, the lands reserved for public amenities, social facilities and utilities in the Development Plans (hereinafter referred to as *the said Development Plan*) of the Municipal Corporations (hereinafter referred to as *the said Planning Authorities*) prepared and sanctioned under the provisions of Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as *the said act*) are being generally acquired under Section 126 of the said Act read with relevant provisions of Land Acquisition Act, 1894 (hereinafter referred to as *the said LA Act*) by granting “*Transferable Development Rights*”;

And whereas, the Land Acquisition Act, 1894 replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is an Act of Indian Parliament that regulates land acquisition and provides rules for granting compensation, rehabilitation and resettlement to the affected persons and provides provisions for fair compensation to those whose land is taken away, brings transparency to the process of acquisition of land and assures rehabilitation of those affected;

And whereas, in view of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, it is necessary to allow the fair compensation for the lands reserved for public amenities, social facilities and utilities in the Development Plans prepared under the provisions of Maharashtra Regional and Town Planning Act, 1966 by granting “*Transferable Development Rights and by allowing owner for development subject to certain conditions under Accommodation Principle*”;

And whereas, in view of the above, Government felt necessary to reform the existing regulations of “*Transferable Development Rights and Accommodation Principle*” (hereinafter referred to as *the said Regulations*) and for that purpose the Study Group was formed to examine the provisions of the newly enacted Land Acquisition Act and to suggest the reformation in the present said regulations of *Transferable Development Rights and Accommodation Principle*;

And whereas, the Study Group after careful study of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, submitted the report to Government and in view of recommendation of the Study Group, the Government of Maharashtra is satisfied that in the public interest it is necessary to incorporate urgently a comprehensive revised regulation in respect of *Transferable Development Rights and Accommodation Principle* in the sanctioned Development Control Regulations of the respective said Planning Authorities replacing the all said existing/proposed regulations of *Transferable Development Rights and Accommodation Principle* (hereinafter referred to as *the proposed modification*);

And whereas, pursuant to the above and in exercise of the powers conferred by Clause (a) of sub-section (1AA) of Section 37 of the said act and all other powers enabling in that behalf, the Government of Maharashtra has published a notice bearing No.TPS-1813/3067/CR-492/MCORP/13/UD-13, dt. 30th April 2015 which appeared in the *Maharashtra Government Gazette*, dated 7th to 13th May 2015 on the page No. 10 to 22 for inviting objections and suggestions upon *the said proposed modifications* from the general public and concerned Joint Director of Town Planning of the division was authorized as an Officer (hereinafter referred to as *the said Officer*) to give hearing and submit his report to the Government;

And whereas, after considering the reports submitted by the concerned said Officers and consulting the Director of Town Planning, M. S., Pune, the Government of Maharashtra is of the opinion that the proposed modifications in respect of “*Transferable Development Rights*” should be sanctioned with certain modifications and decided to take decision on Accommodation Reservation Principle separately.

And whereas, Government of Maharashtra *vide* No.TPS-1813/3067/CR-122/MCORP/122/UD-13, dt. 28th January 2016 has issued the Notification under Section 37 (1 aa) (c) of the said Act regarding Regulations of Transferable Development Rights for the Municipal Corporations which are included in Pune, Nagpur, Nasik, Aurangabad and Amravati Division (excluding Municipal Corporations from Konkan Division.)

And whereas, the Government of Maharashtra is of the opinion that the proposed modifications in respect of “*Transferable Development Rights*” as mentioned in *ANNEXURE B* should be sanctioned with certain modifications for the said Planning Authorities i.e. Municipal Corporations from Konkan Division as mentioned in *ANNEXURE A* [excluding Municipal Corporation of Greater Mumbai (MCGM)] and decided to take decision on Accommodation Reservation Principle separately.

Now, therefore, in exercise of the powers conferred by Clause (c) of sub-section (1AA) of Section 37 of the said act and all other powers enabling in that behalf, the Government of Maharashtra finally sanctions the proposed modifications in respect of “*Transferable Development Rights*” as mentioned in *ANNEXURE B* in supersession of all the earlier existing/proposed regulations for the said Planning Authorities as mentioned in *ANNEXURE A* attached herewith;

02. This notification shall be kept open for inspection to the general public in the following offices for the above period on all working days :—

- (i) Office of the Director of Town Planning, Central Building, Pune;
- (ii) Office of the Joint Director of Town Planning, Konkan Division ;
- (iii) Commissioner, Municipal Corporation.

This notice shall also be made available on the Government website: www.maharashtra.gov.in (कायदे/नियम).

ANNEXURE A

Sr.No.	Name of Municipal Corporation	Name of the Division
1	Thane	Konkan Division
2	Kalyan-Dombivali	
3	Vasai-Virar	
4	Ulhasnagar	
5	Bhinwandi-Nijampur	
6	Mira-Bhayandar	

ANNEXURE - B

REGULATIONS FOR GRANT OF TRANSFERABLE DEVELOPMENT RIGHTS

1.0 Transferable Development Rights—

Transferable Development Rights (TDR) is a compensation in the form of Floor Space Index (FSI) or Development Rights which shall entitle the owner for construction of built-up area subject to provisions in this regulation. This FSI credit shall be issued in a certificate which shall be called as *Development Right Certificate (DRC)*.

Development Rights Certificate (DRC) shall be issued by Municipal Commissioner under his signature and endorse thereon in writing in figures and in words, the FSI credit in square meters of the built-up area to which the owner or lessee is entitled, the place from where it is generated and the rate of that plot as prescribed in the Annual Statement of Rates issued by the Registration Department for the concerned year.

2.0 Cases Eligible For Transferable Development Rights(TDR) :—

Compensation in terms of Transferable Development Rights (TDR) shall be permissible for—

(i) lands under various reservations for public purposes, new roads, road widening etc. which are subjected to acquisition, proposed in Draft or Final Development Plan, prepared under the provisions of the Maharashtra Regional and Town Planning Act, 1966 ;

(ii) lands under any deemed reservations according to any regulations prepared as per the provisions of Maharashtra Regional and Town Planning Act, 1966 ;

(iii) lands under any new road or road widening proposed under the provisions of Maharashtra Municipal Corporation Act ;

(iv) development or construction of the amenity on the reserved land ;

(v) unutilized FSI of any structure or precinct which is declared as Heritage structure or precinct under the provisions of Development Control Regulations, due to restrictions imposed in that regulation ;

(vi) in lieu of constructing housing for slum-dwellers according to regulations prepared under the Maharashtra Regional and Town Planning Act, 1966 ;

(vii) the purposes as may be notified by the Government from time to time, by way of, modification to, new addition of, any of the provisions of sanctioned Development Control Regulations.

3.0 Cases Not Eligible For Transferable Development Rights(TDR) :—

It shall not be permissible to grant *Transferable Development Rights (TDR)* in the following circumstances :—

(i) For earlier land acquisition or development for which compensation has been already paid partly or fully by any means ;

(ii) where award of land has already been declared and which is valid under the Land Acquisition Act, 1894 or the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 unless lands are withdrawn from the award by the Appropriate Authority according to the provisions of the relevant Acts.

(iii) In cases where layout has already been sanctioned and layout roads are incorporated as Development Plan roads prior to these regulations.

(iv) for the width of road that would be necessary according to the length as per Development Control Regulations ;

(v) if the compensation in the form of FSI / or by any means has already been granted to the owner.

(vi) where lawful possession including by mutual agreement /or contract has been taken.

(vii) For an existing user or retention user or any required compulsory open space or recreational open space or recreational ground, in any layout.

(viii) For any designation, allocation of the use or zone which is not subjected to acquisition.

4.0 Generation of The Transferable Development Rights(TDR)—

4.1 Transferable Development Rights (TDR) against surrender of land :—

4.1.1 For Surrender of the gross area of the land which is subjected to acquisition, free of cost and free from all encumbrances, the owner shall be entitled for TDR or DR irrespective of the FSI permissible or development potential of the vary said land to be surrender and also that of land surrounding to such land at the rate as given below :—

Area Designated on DP	Entitlement for TDR/DR
Non-congested Area	2 times the area of surrendered land.
Congested Area	3 times the area of surrendered land.

(*Explanation:* Above entitlement may also be applicable to the compensation paid in the form of FSI to the owner to be utilised on unaffected part of same land parcel and in such cases the procedure of DRC shall not be insisted.):

Provided that, if leveling of land and construction/erection of the compound wall / fencing as per Clause No. 4.1.2 to the land under surrender is not permissible as per the prevailing Development Control Regulations, the quantum of TDR shall be reduced to 1:1.85 and 1:2.85 in non-congested area and congested area respectively :

Provided also that, Additional / incentive *Transferable Development Rights (TDR)* to the extent of 20%, 15% , 10% and 5% of the surrendered land area shall also be allowed to the land owners who submit the proposal for grant of *Transferable Development Rights (TDR)* within 1, 2, 3 years and 5 and 4 years from this notification respectively :

Provided that, the *quantum of generation of TDR as prescribed above*, shall not be applicable for TDR generated from construction of amenity or construction of reservation/roads, Slum TDR, and Heritage TDR . Also the *quantum of Transferable Development Rights (TDR)* generated for reservation in CRZ/BDP/HTHS Low Density Zone/Hazardous Zone areas or in areas which have some natural or legal constraint on development shall be as decided by the Government separately.

4.1.2 DRC shall be issued only after the land is surrendered to the Municipal Corporation, free of cost and free from encumbrances and after leveling the land to the surrounding ground level and after constructing / erecting a 1.5 m. high compound wall / fencing *i.e.* brick/stone wall up to 0.60 mt. above ground level and fencing above that up to remaining height with a gate, at the cost of the owner and to the satisfaction of the Municipal Commissioner. Provided that, if on certain lands such construction / erection of compound wall / fencing is prohibited or restricted by any regulation, then *quantum of Transferable Development Rights (TDR)* shall be reduced as prescribed in proviso to Clause 4.1.1.

4.1.3 If any contiguous land of the same owner/developer, in addition to the land under surrender for which *Transferable Development Rights (TDR)* is to be granted, remains unbuildable, the Municipal Commissioner may grant *Transferable Development Rights (TDR)* for such remaining unbuildable land also if the owner / developer hands it over free of cost and free from all encumbrance and encroachment. If such land is from the proposed roads then such land shall be utilised for road side parking, garden, open space or road side amenities including bus bays, public toilets or any compatible user as the Commissioner may decide and if the such land is from the proposed reservation then same shall be included in such proposed reservation and shall be developed for the same purpose. The Municipal Commissioner shall quarterly report such cases to Government.

4.1.4 In case of lessee, the award of Transferable Development Rights (TDR) shall be subject to lessee paying the lessor or depositing with the Planning Authority for payment to the lessor, an amount equivalent to the value of the lessors' interest to be determined by the Planning Authority on the basis of Land Acquisition Act, 1894 or the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 against the area of land surrendered free of cost and free from all encumbrances.

4.2 *Transferable Development Rights (TDR) against Construction of Amenity—*

When an owner or lessee with prior approval of Municipal Commissioner, may develop or construct the amenity on the surrendered plot or on the land which is already vested in the Planning Authority, at his own cost subject to such stipulations as may be prescribed and to the satisfaction of the Municipal Commissioner and hands over the said developed/constructed amenity free of cost to the Municipal Commissioner then he may be granted a *Transferable Development Rights (TDR)* in the form of FSI as per the following formula :—

$$\text{Construction Amenity TDR in sq.m.} = A/B * 1.25$$

Where,

A= cost of construction of amenity in rupees as per the rates of construction mentioned in Annual Statement of Rates (ASR) prepared by the Inspector General of Registration for the year in which construction of amenity is commenced.

B = land rate per sq.m. as per the Annual Statement of Rates (ASR) prepared by the Inspector General of Registration for the year in which construction of amenity is commenced.

5.0 Utilisation Transferable Development Rights (TDR) :—

5.1 A holder of DRC who desires to use FSI credit therein on a particular plot of land shall attach valid DRCs to the extent required with his application for development permission. Proposal for *Transferable Development Rights (TDR)* utilisation shall be submitted alongwith the documents as may be prescribed by the Commissioner or by the Government from time to time.

5.2 With an application for development permission, where an owner seeks utilisation of DRC, he shall submit the DRC to the Municipal Commissioner who shall endorse thereon in writing in figures and words, the quantum of the TDR proposed to be utilised, before granting development permission. Before issuance of Occupation Certificate, the Commissioner shall endorse on the DRC, in writing in figures and words, the quantum of TDR/DRs actually used and the balance remaining, if any.

5.3 The *Transferable Development Rights (TDR)* generated from any land use zone shall be utilised on any receiving plot irrespective of the land use zone and anywhere in congested or non-congested area earmarked on Development Plan. The equivalent quantum of *Transferable Development Rights (TDR)* to be permitted on receiving plot shall be governed by the formula given below :—

$$\text{Formula: } X = (R_g / R_r) \times Y$$

Where, X = Permissible Utilisation of TDR/DR in sq.m. on receiving plot

R_g = Rate for land in Rs. per sq.m. as per ASR of generating plots in generating year

R_r = Rate for land in Rs. per sq.m. as per ASR of receiving plot in generating year

Y = TDR debited from DRC in sq.m.

5.4 *Utilisation of Transferable Development Rights (TDR) and Road Width Relation :-*

5.4.1 Notwithstanding anything contained in any regulation, the total maximum permissible built-up area and utilisation of *Transferable Development Rights (TDR)* on receiving plot shall be, subject to the road width, as prescribed below :—

Sr No	Plots Fronting on Road width	Maximum permissible TDR Loading		
		Plot area in sq.mt.		
		Upto 1000 sq.mt.	1000 to 4000 sq.mt.	4000 sq.mt. and above
(1)	(2)	(3)	(4)	(5)
1	9mt. and above but less than 12	0.20	0.40	0.40
2	12mt. and above but less than 18	0.30	0.50	0.65
3	18mt. and above but less than 24	0.30	0.60	0.90
4	24mt. and above but less than 30	0.30	0.80	1.15
5	Above than 30 mt.	0.30	1.00	1.40

Note.—

(i) Column No.3, 4 and 5 shows the maximum permissible TDR that can be utilised on any plot. Provided that specific area based restriction on the maximum permissible utilisation limit prescribed by earlier Regulations shall remain in force except for Gaothan areas.

(ii) FSI loading limit on such plot (Maximum Building potential) shall be the basic FSI + TDR + Additional FSI on payment of premium, if any.

(iii) Maximum permissible TDR loading as mentioned above on any plot shall be exclusive of FSI allowed for inclusive housing, if any.

(iv) The priority and quantum of maximum permissible TDR loading mentioned above shall include atleast 20 % slum TDR (wherever applicable) and DRC generated from the vary said land and/or DRC generated from other location upto the permissible limit mention above.

(v) If a plot is situated on internal road having dead end within 50 mt. from the main road, then such plot shall be treated as fronting on main road for the purpose of utilisation of TDR.

5.4.2 Provided that, the restrictions of total maximum permissible built-up area in terms of FSI with respect to road width mentioned above shall not be applicable in cases where, the permissible FSI is more than the basic FSI in various schemes, like Slum Rehabilitation Scheme, Redevelopment of cess buildings, redevelopment of dangerous buildings, Urban Renewal Scheme, Redevelopment of MHADA buildings/Colonies, Metro Influence Zone etc. where specific provisions which are sanctioned by the Government shall apply.

5.4.3 Provided that, the additional FSI permissible in certain categories of buildings such as, Educational building, Registered Charitable Institutional/ Medical / Hospital Building, Star Category Hotel, Religious Building, etc. as per prevailing Development Control Regulations, if any, can be availed either by full or part utilization of TDR or full or part utilization of additional FSI at the option of owner. However, the restriction of road width mentioned as above shall not be applicable when the owner exercises his option of availing utilization of additional FSI and in such cases limitation of maximum building potential as mentioned in regulation No. 5.4.1. shall not be applicable.

5.4.4 The utilisation of Transferable Development Rights (TDR) shall be permissible by considering Gross Plot Area excluding area affected by reservations or deemed reservation, if any. This principle shall also be applicable to the reservations to be developed under the provisions of Accommodation Reservation, by considering the total area of such reservation before surrender.

5.4.5 Areas Restricted from Utilisation of Transferable Development Rights (TDR) —

Utilisation of Transferable Development Rights (TDR) shall not be permitted in following areas :—

(a) Agricultural / no development / Green Zone / HTHS Zone and Bio Diversity Park reservation in the Development Plan.

(b) Area within the flood control line *i.e.* blue line (prohibitive zone) as specified by Irrigation Department.

(c) Coastal regulation zone.

(d) Where the permissible basic Zonal FSI is less than 0.75.

(e) Area having developmental prohibition or restrictions imposed by any notification issued under the provisions of any Central/State Act (like CRZ regulations, Defence restriction areas, etc.) or under these regulations.

6.0 General Stipulation :—

6.1 Development Rights (DRs) will be granted to an owner or lessee, only for reserved lands which are retainable and not vested or handed over to the Government /Urban Local Bodies and not exempted under section 20 or 21 of the then Urban Land (Ceiling and Regulations) Act, 1976 and undertaking to that effect shall be obtained, before a Development Right is granted. In the case of schemes sanctioned under section 20 or 21 of the said Act, the grant of Development Rights (DRs) shall be to such extent and subject to the conditions mentioned in section 20 scheme and such conditions as the Government may prescribe. In case of non-retainable land, the grant of Development Rights shall be to such extent and subject to such conditions as the Government may specify. The provisions of this Regulation shall be subject to the orders issued by the Government from time to time in this regard :

Provided that, in case of lands having tenure other than Class-I, like inam lands, tribal lands etc., N.O.C. from Competent Authority, mentioning (i) share of Government and land holder (ii) transfer of such land in the name of Planning / Appropriate Authority, shall be produced by the land holder at the time of submission of application for grant of TDR.

6.2 DRC shall be issued by the Municipal Commissioner as a certificate printed on bond paper in an appropriate form prescribed by him. Such a certificate shall be a “transferable and negotiable instrument” after the authentication by the Municipal Commissioner. The Municipal Commissioner shall maintain a register in a form considered appropriate by him of all transactions, etc. relating to grant of, or utilisation of, DRC.

6.3 The Commissioner shall issue DRC within 180 days from the date of application or reply from the applicant in respect of any requisition made by him, whichever is later.

6.4 Transfer of DRC—

6.4.1 The Commissioner shall allow transfer of DRC in the following manner—

(i) In case of death of holder of DRC, the DRC shall be transferred only on production of the documents as may be prescribed by him from time to time, after due verification and satisfaction regarding title and legal successor.

(ii) If a holder of DRC intends to transfer it to any other person, he shall submit the original DRC to the Commissioner with an application alongwith relevant documents as may be prescribed by the Commissioner and a registered agreement which is duly signed by Transferor and Transferee, for seeking endorsement of the new holders name, *i.e.*, the transferee, on the said certificate. The transfer shall not be valid without endorsement by the Commissioner and in such circumstances the Certificate shall be available for use only to the holder / transferor.

6.4.2 The utilisation of TDR from certificate under transfer procedure shall not be permissible, during transfer procedure.

6.5 The Commissioner may refrain the DRC holder from utilizing the DRC in the following circumstances :—

(i) Under direction from a competent Court.

(ii) Where the Commissioner has reason to believe that the DRC is obtained (a) by producing fraudulent documents (b) by misrepresentation.

6.6 Any DRC may be utilised on one or more plots or lands whether vacant, or already developed fully or partly by erection of additional storeys, or in any other manner consistent with the prevailing Development Control Regulations.

6.7 DRC may be used on plots/land having Development Plan reservations of buildable nature, whether vacant or already developed for the same purpose, or on the lands under deemed reservations, if any, as per prevailing Regulations.

6.8 DRC may be used on plots/land available with the owner after surrendering the required land and construction to the Planning Authority under the provisions of Accommodation Reservation. In such circumstances, for the purpose of deciding Transferable Development Rights (TDR) receiving potential, the total area of the reservation before surrender, shall be considered.

6.9 Infrastructure Improvement Charges—

The utilizer shall pay to the Planning Authority, an infrastructure improvement charges, for a proposed quantum of TDR to be utilised, at the rate of 5% of construction cost as per the prevailing Annual Statement of Rates.

7.0 Vesting of Land —

7.1 The Commissioner, before issuing DRC, shall verify and satisfy himself that the ownership and title of the land proposed for surrender is with the applicant, and get the Record of Right to be corrected in the name of Planning Authority.

7.2 In case the Appropriate Authority for reservation is other than Planning Authority, it shall be permissible for the Commissioner on the request of such authority to grant TDR under this regulation and hold such possession as a facilitator. Provided that, the Municipal Commissioner shall handover the possession of such land to concerned Appropriate Authority, after receipt of value of land, from such Appropriate Authority as per Annual Statement of Rates prevailing at the time of handing over possession of land under reservation :

Provided also that, if such Appropriate Authority is the State Government Department, the Municipal Commissioner shall handover the possession of such land to the concerned Department free of cost.

8.0 Effect of This Regulation—

(a) Provision of Generation of TDR from these regulations shall not be applicable where DRC has been issued prior to publication of these regulations. However Utilization of such TDR shall be allowed as per these regulations only.

(b) These Regulations shall come into effect from publication of this Notification in *Official Gazette*.

By order and in the name of Governor of Maharashtra,

SANJAY BALKRISHNA SAOJI,

Under Secretary to Government.